

REMARKS

Claims 24-43 are pending in the present application. In the Office Action mailed January 3, 2008, the Examiner rejected claims 39-43 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The Examiner next rejected claims 39-43 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. Claims 24-35 and 37-43 were rejected under 35 U.S.C. §103(a) as being unpatentable over Raza (US Pub. 2002/0035502) in view of Oyagi et al. (USP 6,199,193). Claim 36 was rejected under 35 U.S.C. §103(a) as being unpatentable over Raza in view of Oyagi et al. and further in view of Eringis et al. (US Pub. 2003/0202638).

In light of recent case law, Applicant has amended claims 39-43. As amended, the claims now clearly satisfy the requirements under 35 U.S.C. §101 and 35 U.S.C. §112, second paragraph. Accordingly, Applicant requests withdrawal of the rejection of claims 39-43 under 35 U.S.C. §101 and §112.

Next, regarding the rejection of claims 24-34 and 37-43 under 35 U.S.C. §103(a) as being unpatentable over Raza (US Pub. 2002/0035502) in view of Oyagi et al. (USP 6,199,193), the Examiner stated that “Raza does not explicitly teach displaying the feedback characteristics on an internal GUI.” *Id.* at 4. In order to teach all of the claimed limitations, the Examiner further relied upon the Oyagi et al. reference. Specifically, the Examiner stated that Oyagi et al. teaches “at the centralized facility, determining feedback characteristics of the user feedback displaying, in near real-time, the feedback characteristics on an internal business plan GUI (column 2, lines 8-48; column 6, lines 29 – column 7, line 33).” *Id.* at 5. However, Applicant respectfully disagrees. Claim 24 calls for, in part, “routing the plurality of user feedback to a centralized facility; at the centralized facility, determining feedback characteristics of the plurality of user feedback; and displaying, in near real-time, the feedback characteristics on an internal business plan GUI.” In contrast, the Oyagi et al. reference merely shows that feedback from individual users are stored in a user feedback table (12a), wherein the user feedback table 12a is created separately for individual user IDs. *Oyagi et al.*, Col. 6, Lines 29-49. Oyagi et al. only teaches that user feedback from individual users is stored and then forwarded to engineers via user feedback distribution unit 13, not “routing the plurality of user feedback to a centralized facility” and “at the centralized facility, determining feedback characteristics of the plurality of feedback”,

as is claimed by the Applicant. For this reason, Applicant believes that Raza in view of Oyagi et al. fails to show all of the limitation of claim 24, either expressly or inherently.

Additionally, Applicant believes that the modifications to Raza in view of Oyagi et al. proposed by the Examiner are merely the result of improper hindsight. While Applicant is mindful of the decision in *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350 slip op. (U.S. April 30, 2007), and its findings regarding the standard to be applied in determining obviousness, Applicant believes that the Examiner has still not met the burden for showing a teaching, suggestion, or motivation to modify the cited reference. That is, while the holding in *KSR* supports an expansive and flexible approach for showing the requisite teaching, suggestion, or motivation in determining obviousness, the court in *KSR* also warned that “[a] factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning.” *Id.* at 17. Here, the Examiner clearly uses nothing more than both improper hindsight and the teaching of the present invention as a roadmap in asserting that it would have been obvious to one skilled in the art to modify the method of Raza with method of Oyagi et al. such that feedback characteristics relating to an implemented business plan are displayed on an internal business GUI in near real-time. Such a teaching is wholly absent both Raza and Oyagi et al., as the Oyagi et al. reference is not even drawn to dynamically monitoring external responses to an implemented business plan, but instead monitors individual responses to a software design under development. Accordingly, Applicant believes that the rejection of claim 24 under §103(a) is based on nothing more than improper hindsight reasoning. As such, Applicant believes that claim 24, and the claims dependent therefrom, are patentably distinct over the cited references.

Considering claim 31, it appears that the Examiner has not even considered many of the limitations of the claim. Specifically, nowhere in the Raza reference nor the Oyagi et al. reference is it shown that a processing unit is programmed to “display, upon user selection of the at least one user response link, at least one response GUI including a user survey GUI, receive user responses regarding the implemented business plan; automatically compile a response summary of user responses, and display at least the response summary on a summary GUI for the implemented business plan that is at least accessible by business personnel of the parent company.” As was set forth above with respect to claim 24, the Oyagi et al. reference merely shows that feedback from individual users are stored in a user feedback table (12a), wherein the

user feedback table 12a is created separately for individual user IDs. *Oyagi et al.*, Col. 6, Lines 29-49. The Examiner has not addressed these elements. Clearly the Examiner has not considered all of the limitations of the claim, as required by MPEP 2143.03, nor has the Examiner clearly set forth the grounds of rejection. With no sustainable rejection pending, Applicant believes that claim 31, and the claims dependent therefrom, are patentably distinct over the cited references, and the Examiner's rejection to claim 31 under 35 U.S.C. §103(a) should be withdrawn.

Finally, regarding claim 39, the Examiner again fails to consider many of the limitations of the claim in formulating his rejection. Nowhere in Raza or Oyagi et al. is a computer instructed to display a plurality of GUIs, "wherein the third GUI enables the user to request a response to the feedback; route the feedback and the request for a response, if any, to a business integration leader; display at least a summary of the feedback on a business integration graphical dashboard; and upon approval by the business integration leader, provide a summary GUI accessible on-demand by internal business personnel." The Examiner cannot simply ignore such limitations in a claim, as MPEP 2143.03 states that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). Further, MPEP 2143.03 also sets forth that "[w]hen evaluating claims for obviousness under 35 U.S.C. 103, all the limitations of the claims must be considered and given weight, including limitations which do not find support in the specification as originally filed (i.e., new matter)." *Ex parte Grasselli*, 231 USPQ 393 (Bd. App. 1983) *aff'd mem.* 738 F.2d 453 (Fed. Cir. 1984). As it is clear that the Examiner has not provided sufficient support for the rejection of claim 39, Applicant believes that the rejection to claim 39, as well as all claims dependent therefrom, should be withdrawn. Applicant also believes that claim 39, and the claims dependent therefrom, are patentably distinct over the cited references, providing further reason for the Examiner's rejection to claim 39 under 35 U.S.C. §103(a) to be withdrawn.

Therefore, in light of at least the foregoing, Applicant respectfully believes that the present application is in condition for allowance. As a result, Applicant respectfully requests timely issuance of a Notice of Allowance for claims 24-43.

Applicant hereby authorizes charging of Deposit Account No. 07-0845 for any additional fees associated with entering the aforementioned claims.

Applicant appreciates the Examiner's consideration of these Amendments and Remarks and cordially invites the Examiner to call the undersigned, should the Examiner consider any matters unresolved.

Respectfully submitted,

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General Authorization and Extension of Time

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 07-0845. Should no proper payment be enclosed herewith, as by credit card authorization being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 07-0845. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extensions under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 07-0845. Please consider this a general authorization to charge any fee that is due in this case, if not otherwise timely paid, to Deposit Account No. 07-0845.

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